



County of Los Angeles
CHIEF ADMINISTRATIVE OFFICE

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DAVID E. JANSSEN
Chief Administrative Officer

September 6, 2005

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**NONPROFIT CONTRACTOR REQUIREMENTS
(ALL DISTRICTS)
(3 VOTES)**

IT IS RECOMMENDED THAT YOUR BOARD:

Approve the Nonprofit Contractor Requirements Policy, including solicitation and contract language, and the compliance statement developed in response to the mandates of SB 1262 – the Nonprofit Integrity Act of 2004 - effective immediately upon Board approval, and order inclusion of the policy in the Board of Supervisors Policy Manual.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On February 8, 2005, on motion by Supervisor Burke, your Board instructed this Office to report back in 120 days on various actions to help ensure appropriate compliance with the Nonprofit Integrity Act of 2004 (SB 1262) as it relates to the County's nonprofit contractors. Via a June 17, 2005 memorandum to your Board, this Office reported back with recommendations and countywide guidelines to ensure contractor's compliance with the mandates of SB 1262. These recommendations included mandatory solicitation and contract language specific to SB 1262, a compliance statement for new contractors certifying whether or not they are subject to SB 1262, and an informational fact sheet that departments must provide to all existing contractors subject to SB 1262.

This request is to refine some of those recommendations and to formally establish a Board policy related to the provisions of SB 1262 for nonprofit and charitable organizations that contract with the County.

Board of Supervisors
GLORIA MOLINA
First District

YVONNE B. BURKE
Second District

ZEV YAROSLAVSKY
Third District

DON KNABE
Fourth District

MICHAEL D. ANTONOVICH
Fifth District

- SB 1262 mandates certain financial disclosure and fiscal accountability requirements for certain charitable/nonprofit organizations. SB 1262 was signed into law on September 30, 2004 and took effect January 1, 2005.
- The Act increases governmental oversight of charities, increases the transparency of charities' financial statements, and increases the standards that protect both charities and their donors with respect to charitable solicitations.
- The Act also includes provisions that regulate nonprofit corporations in two main areas: governance and charitable fundraising. The Act's provisions apply to all charitable corporations, charitable trusts, and unincorporated associations that are required to register with and annually report to the Attorney General's Registry of Charitable Trusts. Its provisions do not, however, apply to entities primarily organized as hospitals, educational institutions, or religious organizations.
- The Act also applies to foreign charities doing business or holding property in California. In the realm of governance, the Act has two layers of provisions: an initial set of requirements applies to all charities. A second set of requirements applies to charities with gross revenues over \$2 million not including audited revenues from governmental entities.

It should be noted that most of nonprofits that contract with the County will not be subject to the set of requirements specific to charities with gross annual revenues over \$2 million. Typically, these nonprofits have been audited per *OMB Circular 133-A*. This Circular sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of states, local governments, and nonprofit organizations expending Federal awards. It requires that non-Federal entities that expend \$300,000 or more in a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the provisions of this policy.

Implementation of these policies and procedures will lead to increased awareness of SB 262 mandates by County contractors and will result in consistent practices amongst County departments regarding this legislation. In addition, these actions are consistent with proactive measures that seek to assist and/or prevent organizations from noncompliance with SB 1262, which can adversely affect County residents.

Implementation of Strategic Plan Goals

This action supports the County's Strategic Plan goals for Fiscal Responsibility by strengthening the County's fiscal capacity and Organizational Effectiveness by ensuring that service delivery systems are efficient, effective, and goal-oriented.

FISCAL IMPACT/FINANCING

There is no direct fiscal impact from this action. Implementation of the recommended action will help ensure that our nonprofit contractors implement the appropriate fiscal and operational measures to address SB 1262 mandates. This should help avoid any negative fiscal consequences for the County.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

This Office convened a Task Force of representatives from departments with significant experience in contracting with nonprofits and social services agencies including County Counsel, the Department of Health Services, the Community Development Commission, the Internal Services Department, the Auditor-Controller, the Department of Children and Family Services, the Department of Public Works, the Department of Mental Health, and the Department of Public Social Services. This Task Force was charged with developing recommendations and countywide guidelines to ensure contractors' compliance with the mandates of SB 1262.

The Task Force's initial recommendations were reflected in a June 17, 2005 memorandum to your Board. These recommendations have been refined to apply only to applicable contracts as reflected in the attached proposed Board policy and include the following:

- County departments conducting a solicitation or executing a contract are required to determine if proposers/contractors are nonprofits and to include the provisions of SB 1262 as appropriate.
- County contract solicitations and all new and renewed County contracts must, if appropriate for such services, include the standard SB 1262 language. Inclusion is mandatory for departments whose principal mission is providing social services
- Existing and prospective County contractors must, if appropriate for such services, certify in new, renewed, or amended contracts their compliance with State law, or their acknowledgment of future compliance upon becoming subject during the term of a County contract.

- County departments issuing solicitations to nonprofits or contracting with them will provide nonprofits an information sheet intended to assist with SB 1262 compliance and identify available resources.
- The referenced: 1) contract and solicitation language, 2) compliance statement, and 3) information sheet will be included in the model solicitation documents, available to all County departments via the Internal Services Department-maintained Website (http://purchasingcontracts.co.la.ca.us/contracting_models.htm) under the "Unique Provisions" section.
- County departments must identify those contracts with nonprofits subject to SB 1262 when entering contracts in the electronic County Accounting and Purchasing System (eCAPS), consistent with protocols established by the Auditor-Controller.

These policies will help to ensure that we do not overburden contractors with additional requirements that may not apply while providing the appropriate measures, as applicable, to departments to address the mandates of SB 1262. In addition to these policies, this Office, in conjunction with staff from the Attorney General's Office, will present a forum focused on the SB 1262 mandates and compliance for County staff, nonprofits, and charitable organizations. The forum is scheduled for September 27, 2005 at the Arboretum of Los Angeles County.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

The proposed policies and procedures will establish countywide consistency in fiscal and programmatic application for departments that contract with nonprofits and charitable organizations.

Respectfully submitted,



DAVID E. JANSSEN
Chief Administrative Officer

DEJ:MKZ
VLA:os

Attachment

c: All Department Heads



Los Angeles County **BOARD OF SUPERVISORS POLICY MANUAL**

Policy #:	Title:	Effective Date:
0.000	NONPROFIT CONTRACTOR REQUIREMENTS POLICY	09/06/05

PURPOSE

Requires, if appropriate for such services, contract and solicitation language, and compliance certification to ensure that County contractors who raise or receive charitable contributions comply with state law.

REFERENCE

February 8, 2005, Board Order 10

February 18, 2005, Chief Administrative Officer memorandum to affected department heads, "Senate Bill 1262 – The Nonprofit Integrity Act of 2004"

June 17, 2005, Chief Administrative Officer memorandum to each Supervisor, "Senate Bill 1262 – The Nonprofit Integrity Act of 2004"

POLICY

Los Angeles County supports State efforts to prevent misuse of charitable contributions by those who raise or receive them, including Senate Bill 1262 – the Nonprofit Integrity Act of 2004. It is the responsibility of existing and future County contractors to determine if their activities in raising or receiving charitable assets are regulated. The County seeks to assist its nonprofit contractors in complying with their obligations, and accordingly, this Policy requires the following:

- County departments conducting a solicitation or executing a contract are required to determine if proposers/contractors are nonprofits and will include the provisions of SB 1262 as appropriate.
- County contract solicitations and all new and renewed County contracts must, if appropriate for such services, include the standard language specified below. Inclusion is mandatory for departments whose principal mission is providing social services.
- Existing and prospective County contractors must, if appropriate for such services, certify in new, renewed, or amended contracts their compliance with State law, or their acknowledgment of future compliance upon becoming subject during the term of a County contract.

- County departments issuing solicitations to nonprofits or contracting with them will provide nonprofits an information sheet intended to assist with SB 1262 compliance and identify available resources.
- The referenced: 1) contract and solicitation language, 2) compliance statement, and 3) information sheet will be included in the model solicitation documents, available to all County departments via the Internal Services Department-maintained Website (http://purchasingcontracts.co.la.ca.us/contracting_models.htm) under the "Unique Provisions" section
- County departments must identify those contracts with nonprofits subject to SB 1262 when entering contracts in the electronic County Accounting and Purchasing System (eCAPS), consistent with protocols established by the Auditor-Controller.

Standard language to be used, if appropriate for such services, in all new County contracts, renewals and amendments:

.XXX CONTRACTOR'S CHARITABLE ACTIVITIES COMPLIANCE

X.XX.1 The Supervision of Trustees and Fundraisers for Charitable Purposes Act regulates entities receiving or raising charitable contributions. The "Nonprofit Integrity Act of 2004" (SB 1262, Chapter 919) increased Charitable Purposes Act requirements. By requiring Contractors to complete the certification in Exhibit #, the County seeks to ensure that all County contractors which receive or raise charitable contributions comply with California law in order to protect the County and its taxpayers. A Contractor which receives or raises charitable contributions without complying with its obligations under California law commits a material breach subjecting it to either contract termination or debarment proceedings or both. (County Code Chapter 2.202)

Standard language to be used, if appropriate for such services, in all solicitation documents:

X.XX Proposer's Charitable Contributions Compliance

California's "Supervision of Trustees and Fundraisers for Charitable Purposes Act" regulates receiving and raising charitable contributions. Among other requirements, those subject to the Charitable Purposes Act must register. The 2004 Nonprofit Integrity Act (SB 1262, Chapter 919) increased Charitable Purposes Act requirements. New rules cover California public benefit corporations, unincorporated associations, and trustee entities and may include similar foreign corporations doing business or holding property in California. Key Nonprofit Integrity Act requirements affect executive compensation, fund-raising practices and documentation. Charities with over \$2 million of revenues (excluding funds that must be accounted for to a governmental entity) have new audit requirements.

All prospective contractors must determine if they receive or raise charitable contributions which subject them to the Charitable Purposes Act and complete the certification form attached as Exhibit #. A completed Exhibit # is a required part of any agreement with the County.

In Exhibit #, prospective contractors certify either that:

- ✓ they have determined that they do not now receive or raise charitable contributions regulated under the California Charitable Purposes Act, (including the Nonprofit Integrity Act) but will comply if they become subject to coverage of those laws during the term of a County agreement,

Or:

- ✓ They are currently complying with their obligations under the Charitable Purposes Act, attaching a copy of their most recent filing with the Registry of Charitable Trusts.

Prospective County contractors that do not complete Exhibit # as part of the solicitation process may, in the County's sole discretion, be disqualified from contract award. A County contractor that fails to comply with its obligations under the Charitable Purposes Act is subject to either contract termination or debarment proceedings or both. (County Code Chapter 2.202)

Compliance statement to be used, if appropriate for such services, in all new County contracts, renewals and amendments:

CHARITABLE CONTRIBUTIONS CERTIFICATION

Company Name

Address

Internal Revenue Service Employer Identification Number

California Registry of Charitable Trusts "CT" number (if applicable)

The Nonprofit Integrity Act (SB 1262, Chapter 919) added requirements to California's Supervision of Trustees and Fundraisers for Charitable Purposes Act which regulates those receiving and raising charitable contributions.

CERTIFICATION	YES	NO
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Proposer or Contractor has examined its activities and determined that it does not now receive or raise charitable contributions regulated under California's Supervision of Trustees and Fundraisers for Charitable Purposes Act. If Proposer engages in activities subjecting it to those laws during the term of a County contract, it will timely comply with them and provide County a copy of its initial registration with the California State Attorney General's Registry of Charitable Trusts when filed.	()	()
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OR

Proposer or Contractor is registered with the California Registry of Charitable Trusts under the CT number listed above and is in compliance with its registration and reporting requirements under California law. Attached is a copy of its most recent filing with the Registry of Charitable Trusts as required by Title 11 California Code of Regulations, sections 300-301 and Government Code sections 12585-12586.	()	()
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Signature

Date

Name and Title (please type or print)

RESPONSIBLE DEPARTMENT

Chief Administrative Office
County Counsel

DATE ISSUED/SUNSET DATE

Issue Date: September 6, 2005

Sunset Date: September 6, 2009